

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

UNITED STATES OF AMERICA

v.

BRIAN FOLKS

No. 2:16-CR-94

OPPOSITION OF THE UNITED STATES TO MOTION TO EXTEND TIME

The United States opposes the “Motion to Extend Time for the Filing of a Motion to Reconsider the Denial of the Defendant’s Motion for Judgment of Acquittal or for a New Trial” (Doc # 521), filed November 8, 2019.

On May 9, 2019, a jury returned guilty verdicts on several drug and human trafficking counts. In May, June, and July the defense three times obtained extensions to file a post-trial motion. The July 29, 2019 post-trial motion urged insufficient evidence. On November 4, 2019, the Court ruled that sufficient evidence supported all guilty verdicts but one.

The law provides a 14-day period in which to file a motion to reconsider. The instant motion seeks six weeks (the two weeks provided plus another four weeks). Folks urges that the Court’s Order is “dense” and “lengthy,” such that he and his three lawyers cannot respond in two weeks, or even three. Counsel protests that the government’s agreement to one extra week would make the motion due the Monday of Thanksgiving week (when counsel “is unavailable”).

The Court’s Order is lengthy because it is thorough: it carefully sets forth the extensive evidence supporting the jury’s verdicts. That makes it *easier* to understand, as opposed to more difficult. It should not require six weeks to grasp the Court’s reasoning. As to timing, counsel’s protest about working the Monday before Thanksgiving may be echoed by government counsel:

they will be required to work during the Christmas and New Year's holidays if the deadline is extended to December 16.

A six-week extension would put at risk the February 3, 2020 sentencing hearing. A six-week period would be followed by a 30-day period for a government response, which would be followed in turn by Court deliberations. The result would push up against the due date for sentencing memoranda and could require delaying the February 3 sentencing.

Given the extraordinary delays to date (three trial continuances and three sets of counsel) combined with the extra precautions already taken by this Court on behalf of Folks (multiple extensions of time, and appointment of a third attorney), the government urges the Court to deny the request for a six-week extension. While two weeks should be sufficient, the Court could provide another week (or two). That remedy would better fit practical realities (the notion that the Court's thorough review of trial evidence is wrong), the approaching holidays (of interest to all), and would make it unlikely that sentencing will be further delayed.

Dated at Burlington, in the District of Vermont, November 13, 2019.

Respectfully submitted,

UNITED STATES OF AMERICA

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